

C O P Y

OFFICE OF ATTORNEY-GENERAL

1956

February 27

CONCORD, NH

Mr. William A. Jackson, Chairman
Liquor Commission
109 No. Main Street
Concord, New Hampshire

Dear Sir:

This is in response to your request of this date that we further consider the matter of the ownership and control of off-sale permits numbers 1525, 1535, 1423, 1694 and 1606 in the light of certain developments which have occurred since the rendition of our opinion of February 16, 1956 on the same subject.

As appears in the files of the Commission, Gerard O. Bergevin, Esq., on behalf of Romeo J. Champagne, on February 23, 1956 and following receipt of your order of February 21, 1956, addressed a letter to you in which he advised, in part, as follows:

"For your information, please be informed that on February 22, 1956, Champagne's Super Market Corporation, Champagne's Super Market Co., Daniel Webster Highway, Inc., and Nashua Supermarket, Inc., held special Directors' Meetings at which it was voted:

- (1) To forthwith cancel their respective contracts with Super Market Management Service, Inc., for the reason that said contract interferes with the respective corporation's rights to hold and retain an off-sale permit, as determined by the New Hampshire State Liquor Commission."

The fact of such action was confirmed at a formal conference at your office this morning at which time Mr. Champagne and his counsel appeared before the Commission. The Commission was advised that the cancellation is currently effective, and that the contracts between Super Market Management Service, Inc., and the several permittees referred to in our opinion of February 16, 1956 are no longer in effect. The Commission was informed that a new form of contract has

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been prepared to be used in the place of the former instruments, it being made clear in the new contracts that the contractual relationship does not confer the power upon Super Market Management Service, Inc., to control the permittees.

In view of such action on the part of the permittees and as a result of it, it now appears that Romeo J. Champagne no longer controls any of the permittees through a contractual arrangement as was held in our earlier opinion; and it is therefore our view that he holds directly or indirectly only those permits issued to Champagne's Super Markets, Inc. and Exeter Super Market, Inc. There is, thus, no longer a violation of that part of RSA 181:22 which relates to the holding of more than two off-sale permits by one person.

As the Commission is aware, testimony was taken this morning under oath with respect to the issue raised in our opinion dealing with that part of RSA 181:22 which reads as follows:

" . . . No holder of an . . . off-sale permit shall have in his employ, in any capacity, any person who is the holder of any permit provided by this chapter."

Upon the basis of such testimony it is our opinion that Mr. Champagne's relationship to the permittees he does not own is not in violation of this provision.

Very truly yours,

Warren E. Waters
Deputy Attorney General

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